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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 362

J. MINOS SIMON

versus

WARREN LANDRY, ET AL

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT.

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT.

To the Chief Justice of the United States and the Justices of the Supreme Court of the United States:

Petitioner respectfully prays that:

(a) A writ of certiorari issue to review the judgment of the United States Court of Appeals, Fifth Circuit, rendered on April 11, 1966, rehearing denied on May 24, 1966, whereby the court held that Honorable Edwin F. Hunter, United States District Judge for the Western District of Louisiana, acting alone, had no jurisdiction to adjudicate the matter presented by plaintiff's complaint, and thereupon reversed the district court's judgment maintaining defendants' motion to dismiss and remanded the case to the United States District Court, Western District of Lou-

isiana, for trial before a three-judge court.

"Contending that defendants, acting under color of law as police jurors of Lafayette Parish, Louisiana, are maintaining and willfully refusing to discontinue the maintenance of a districting into wards of Lafayette Parish in a manner that grossly dilutes the voting power of plaintiff and those similarly situated and correspondingly inflates the voting power of those in whose favor the discrimination exists, and continue to exists, plaintiff seeks injunctive relief. Plaintiff's suit was dismissed by Honorable Edwin F. Hunter, United States District Judge for the Western District of Louisiana, acting alone, on motion to dismiss filed by the defendants. On appeal, the United States Court of Appeals, Fifth Circuit, reversed, holding that said district judge was without jurisdiction to adjudicate the controversy involved in this lawsuit and remanded the case to be tried before a three-judge district court.

OPINIONS BELOW

1. The district judge found that the "material facts are not in dispute. The police jury is the parish legislative body and exercises powers delegated to it by the state legislature." He further found that "the fact remains that little mathematical ingenuity is required to prove plaintiff's theory that the vote in parish management affairs of the individual voter in Ward 3 is grossly diluted." Despite the fact that said district judge found that the prevailing districting of Lafayette Parish resulted in "a total subversion of the population principle" and further that "reshaping or combining two or three wards, or modifying a few ward lines might do the job," he dismissed plaintiff's complaint on defendants' motion to dismiss, concluding that the official state conduct involved was beyond the reach of federal judicial review. The entire text of the opinion is reproduced in Appendix A, *infra*, pp. A1-A7.

2. Despite plaintiff's specific disclaimer to the effect that he was not attacking the constitutionality of the state statute involved, i.e., Louisiana Revised Statutes, Chapter 2, Part 5, Title 33, Sections 1221, et seq., which invests defendants with the power to district Lafayette Parish into wards and his insistence that his constitutional attack was levelled only against the "lawless exercise by defendants of legal authority conferred upon them by the state statutes," the United States Court of Appeals, Fifth Circuit, reversed the decision of the United States District Court aforesaid on the stated position that only a three-judge district court could adjudicate the controversy presented by plaintiff's complaint. This opinion was rendered on April 11, 1966, and a timely rehearing was denied on May 24, 1966, without the assignment of reasons. The opinion is reproduced in Appendix B, *infra*, at pp. B1-B2 and reported in *Simon v. Landry*, 359 F. 2d 67.

JURISDICTION

The jurisdiction of this Honorable Court is invoked under Title 28, United States Code, 1254.

QUESTION PRESENTED

1. Is a United States District Judge, acting alone, empowered to grant injunctive relief against state officials, whose acts, under color of law, deprive a citizen of federally secured rights, where the complaint in plain terms attacks, not the constitutionality of a state statute, but only the lawless exercise by defendants of legal authority conferred upon them by state law?

STATE STATUTE INVOLVED

The state statute, involved only collaterally, and in the sense only that it confers upon defendants the legal authority which they have and continue to exercise law-

lessly, is Louisiana Revised Statutes, Chapter 2, Part 5, Title 33, Section 1221, et seq., the text of which is fully reproduced herein in Appendix C, *infra*, pp. C1-C18.

CONCISE STATEMENT OF CASE

Invoking federal jurisdiction under Title 28, United States Code, Sections 1331, 1343 (3), 2201, and 2202, and Title 42, United States Code, Sections 1983 and 1988, plaintiff sought injunctive relief against defendants who are members of the Lafayette Parish Police Jury, a legislative body instituted as the governing authority of the parish in which plaintiff resides.

The thrust of the complaint is that defendants, invested solely with the power to district Lafayette Parish into wards from which police jurors are to be elected by the people, have willfully districted the parish in such a manner as to effect an invidious discrimination against plaintiff and those similarly situated in Ward 3 of Lafayette Parish. As a result of this willful action, twenty percent of the inhabitants of the entire parish possess the majority of the voting power of the police jury and thus dominates and controls the governing authority of the parish to the exclusion of the vast majority of the inhabitants of the entire parish. Consequently, this offensive, willful, state action grossly dilutes plaintiff's voting power, and those similarly situated, to the extent that it is non-existent.

While conceding that the material facts presented by plaintiff's complaint were not in dispute and that the defendants, while acting under color of law, had in fact effected an invidious discrimination against plaintiff and those similarly situated and that plaintiff's voting power was grossly diluted, the United States District Judge, acting alone, maintained defendants' motion to dismiss, con-

cluding that the offensive state conduct was beyond the reach of federal judicial review. On appeal, the United States Court of Appeals reversed, concluding that the United States District Judge, acting alone, did not have jurisdiction to adjudicate the controversy and remanded the case for trial before a three-judge court. Plaintiff's rehearing application was denied without the assignment of reasons.

REASONS FOR GRANTING RELIEF

Plaintiff's petition in clear terms attacks, not the constitutionality of a state statute, but only the lawless exercise by defendants of legal authority conferred upon them by state law. Thus, the constitutionality of a state statute is not at issue. In such a context, the decision of the United States Court of Appeals, Fifth Circuit, is diametrically contrary to the decision of this court in *Phillips v. United States*, 312 U.S. 246, 61 S. Ct. 480, 85 L. Ed. 800 (1941). According to *Phillips v. United States*, a three-judge district court is without authority to adjudicate the controversy presented by plaintiff's complaint. Only a district judge, acting alone, has the legal authority to grant the relief prayed for.

The decision of the United States Court of Appeals, Fifth Circuit, if it stands unreversed, launches plaintiff on a prolonged and vexatious legal voyage. If plaintiff tries his case before a three-judge court in compliance with the mandate of the appellate court, his or defendants' statutory right of appeal would be to the Supreme Court, inasmuch as such a decision would be the product of a three-judge district court. Because plaintiff attacks not a state statute, but the lawless exercise of authority conferred on state officials by a state statute, there would be a fatal bar to the Supreme Court entertaining the appeal. *Phillips*

v. United States, supra; Idlewild Bon Voyage Liquor Corporation v. Epstein, 370 U.S. 713, 82 S. Ct. 1294 (1962). Similarly, an appeal to the United States Court of Appeals, Fifth Circuit, likewise would be fatally defective. *Stratton v. St. Louis S. W. R. Co.*, 32 U.S. 10, 51 S. Ct. 8, 35 L. Ed. 135. Thus, plaintiff or defendants would thereby be denied of an effective appeal and consequently denied of equal justice.

CONCLUSION

Thus, plaintiff has no adequate remedy at law and stands to suffer irreparable injury absent a grant of the writ of certiorari herein prayed for.

Respectfully submitted,

S/ J. Manos Simon

J. MANOS SIMON,
Attorney for Petitioner.

Of Counsel:
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1408 Pinhook Road,
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Certificate of Service
to the Fifth Cir Judges
attached to original—

PROOF OF SERVICE

STATE OF LOUISIANA
PARISH OF LAFAYETTE

I, J. Minos Simon, counsel for petitioner and a member of the bar of the United States Supreme Court, hereby affirm under oath that a copy of the foregoing petition for writ of certiorari has been served on the parties hereto, by mail, in a properly addressed envelope, postage prepaid as follows, to-wit:

Bertrand DeBlanc, District Attorney
Lafayette Parish Courthouse
Lafayette, Louisiana

Jack P. F. Gremillion, Attorney General
State Capitol Building
Baton Rouge, Louisiana

George M. Ponder, Assistant to the
Attorney General
State Capitol Building
Baton Rouge, Louisiana

William P. Schuler, Assistant to the
Attorney General
State Capitol Building
Baton Rouge, Louisiana

Lafayette, Louisiana; this 12 day of July, 1966.

S/ J. Minos Simon
J. MINOS SIMON

Sworn to and subscribed
before me on this 12
day of July, 1966, at
Lafayette, Louisiana.

S/ John Bijie Minton
Notary Public

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

CIVIL ACTION
No. 9,100

J. MINOS SIMON

versus

WARREN LANDRY, WALLACE LEGER,
L. PAUL BEGNAUD, FRANK J. BREAUX,
CLEONE LALANDE, LUKE LEBLANC,
OVERTON MENARD, JOHN D. BROUSSARD,
LLOYD GIROUARD, EDDIE STEMMANS,
A. P. BROUSSARD, FRANK MONTET,
U. B. LANDRY, NOEL GIUFFRIDA, and
CHARLES MARTIN, Police Jurors

FOR PLAINTIFF

Messrs.
Simon & Trice
P. O. Box 1656 OCS
Lafayette, Louisiana

FOR DEFENDANTS

Bertrand DeBlanc, District Attorney
Lafayette Parish Court House
Lafayette, Louisiana

Hon. Jack P. F. Gremillion,
Attorney General
George M. Ponder, Asst. to
Attorney General
William P. Schuler, Asst. to
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State Capitol Building
Baton Rouge, Louisiana

HUNTER, JUDGE:

On June 15, 1964 the United States Supreme Court decided *Reynolds v. Sims*[1] and five other cases concerning apportionment of the legislatures of the States of Alabama, New York, Colorado, Maryland, Virginia and Delaware. The thrust of the Court's holding in these cases was that the seats in both houses of a bicameral legislature must under the Equal Protection Clause be apportioned substantially on a population basis.

This suit challenges the apportionment of the members of the Lafayette Parish Police Jury among the ten wards of the Parish. The basic theory of the action is disparity of representation and the allegation is that the defendants[2] are maintaining and refusing to discontinue the maintenance of a districting into words (wards) in a manner that grossly dilutes the voting rights of plaintiff, a resident of Ward 3, and those similarly situated.

Police juries[3] are authorized by statute to re-district their parishes into not less than five nor more than twelve police jury wards. (LSA-R.S.-33:1224). LSA-R.S.-33:1222 prescribes the formula for determining the number of police jurors for each ward. It reads:

> "In parishes having a population of fifty thousand or more, for each parish ward, there shall be elected, in the manner provided by law, in addition to the police juror to which the ward is entitled, one additional police juror for each ten thousand inhabitants which the ward contains, said apportionment to be based upon the last preceding United States census; **also one additional police juror for each additional ten thousand inhabitants,** or part

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[1] 377 U.S. 533.
[2] The individual members of the Police Jury.
[3] Police juries are historically the fountainhead of representative government within Louisiana parishes.

thereof in excess of seven thousand five hundred, to be selected from the resident voters of the ward, except that no police jurors shall be lost by the parish or any ward thereof when the parish passes the number of 50,000. After the population of a parish exceeds 175,000 inhabitants according to the United States census, no additional members shall be added to the police jury."

Plaintiff, demonstrating mathematically the variation in the per capita representation per police juror, contends that the equal protection clause of the Fourteenth Amendment as construed by the United States Supreme Court in *Reynolds v. Sims*, requires that representation on the Lafayette Parish Police Jury be apportioned on a population basis.

The material facts are not in dispute. The Police Jury is the parish legislative body and exercises powers delegated to it by the State of Louisiana. The State statutes (LSA-R.S.-33:1222 and 33:1224) are not attacked.[4] Maintenance of the present districting into wards is authorized by those statutes. Lafayette Parish is comprised of ten wards. Plaintiff is a resident of Ward 3, and the disparity of representation against the individual voter in Ward 3 is easily demonstrable. The 1960 United States Census reveals the number of inhabitants residing in Lafayette Parish on a ward basis to be:

Ward One (1)	5,213
Ward Two (2)	2,815
Ward Three (3)	55,033
Ward Four (4)	1,093
Ward Five (5)	2,511
Ward Six (6)	4,370
Ward Seven (7)	2,370

[4] These statutes provide a formula for the representation of wards on police juries and there is no claim that their provisions have not been complied with in the composition of the jury.

Ward Eight (8)	9,381	(Ward 8, within the last several years, has been divided into Wards 8 and 10).
Ward Nine (9)	1,880	

These figures reveal that 65% of the people reside in Ward 3. Each ward, in accordance with the applicable state statutory law, is represented by one police juror except Ward 3, which is represented by six.[5] It is apparent that the number of police jury seats to be apportioned does not significantly exceed the number of wards, and thus, the statutory policy of giving at least one seat to each ward has resulted in a total subversion of the population principle and the state statute. Re-shaping or combining two or three wards, or modifying a few ward lines might do the job, but such a decision as to method is far removed from the field of judicial competence. The fact remains that little mathematical ingenuity is required to prove plaintiff's theory that the vote in parish management affairs of the individual voter in Ward 3 is grossly diluted. This Court's task is to determine whether or not this disparity transgresses the Constitution. The fundamental issue is: How far should the federal judiciary go in extending *Reynolds v. Sims* to local governmental bodies? The question is not easy to decide, because to date the Supreme Court has not had to consider whether the equal protection clause requires apportionment of local governmental subdivisions in accordance with population.

Since *Reynolds* (June 15, 1964) there have been decisions of other courts extending the principle of that case to lesser units of government. *Brower, et al v. Bronkenia, et al*, Cir. Ct. for Kent, Michigan, Sept. 11, 1964; *Damon, et al v. Lauderdale County Election Commissioners*, E.D.

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[5] "One additional police juror for each additional 10,000 inhabitants, or part thereof in excess of 7,500 * * * ". LSA-R.S.-32:1222.

Miss., Oct. 21, 1964; *Ellis v. Mayor and City Council of Baltimore*, D.C. Md., Oct. 20, 1964, 234 F. Supp. 945; *Blanchi, et al v. Suffolk County, N. Y.*, Feb. 1, 1965. Other courts have held that the Federal Constitution does not require apportionment of local governmental bodies in a state on a population basis. *Johnson v. Genesee County, Michigan*, 232 F. Supp. 567 (June 18, 1964); *Tedesco v. Board of Supervisors of Elections*, C.A. La., 1949, 43 So. 2d 514, appeal dismissed 339 U.S. 940 (1950); *Glass v. Hancock County*, (Miss., 1964), 156 So. 2d 825, appeal dismissed 378 U.S. 555, June 21, 1964; *McMillian v. Wagner*, D.C. S.D. of N.Y., Sept. 12, 1964.

This Court is in accord with the reasoning and result reached by the District Court for the Eastern District of Michigan in the *Johnson* case (232 F. Supp. 567). It should be emphasized that the Supreme Court has on two occasions categorically refused to consider whether the Federal Constitution requires local governmental bodies to be apportioned on a population basis. The *Reynolds* case, so heavily relied on by plaintiff, was decided June 15, 1964, and the *Glass* case on June 22, 1964.

Let it be understood that we find no merit in the argument that unless the Supreme Court expressly first determines the Equal Protection Clause of the Fourteenth Amendment applies to local governmental bodies that this Court should refrain from acting. We appreciate that it is our duty to decide questions properly presented whether they have been expressly decided by the Supreme Court or not.

In *Tedesco v. Board of Supervisors of Elections for the Parish of Orleans, et al*, 43 So. 2d 514, C.A. La. 1949, a resident of the Third District of New Orleans complained of the Third District's representation on the City Commis-

sion, in which was vested administrative and executive powers for the City of New Orleans. The complaint also alleged that the Louisiana statute producing the result violated the Fourteenth Amendment of the United States Constitution. More specifically the 8,508 inhabitants of the Fifth District elected one commissioner, whereas the voters of the Third District, numbering 48,020, also elected one commissioner. The Louisiana court concluded that the statute was not violative of any provision of the Federal Constitution. An appeal to the Supreme Court of the United States was "dismissed for want of a substantial question," 339 U.S. 940. In *Glass v. Hancock County Election Commission*, 156 So. 2d 825 (S.Ct. Miss., 1963) the question arose as to whether the failure to re-district county supervisor districts, like the failure to reapportion state legislative districts, violated the Fourteenth Amendment where there is a population disparity. The Supreme Court of Mississippi had affirmed the denial of injunctive relief on the theory that there was adequate remedy at law, namely, statutory procedure for re-districting. An appeal was taken to the Supreme Court of the United States. The Supreme Court, in disposing of the matter, said only this:

> "PER CURIAM:"
>
> > "The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari is denied." 378 U.S. 558.

All that this Court now decides is that on today's market the prevailing view of the United States Supreme Court sustains defendant's position that police juries in Louisiana are subordinate governmental instrumentalities created by the State to assist in the carrying out of state governmental functions and the apportionment thereof, as well as the powers conferred upon them, and rests in the

sole discretion of the State.[6] *Johnson v. Genesee County, supra,* and cases cited therein; *Hunter v. City of Pittsburg,* 207 U.S. 167.

It may well be that the principles of the *Reynolds* case will be extended to police juries, school boards, and the like. While we wait for developments in this new area of the law, it is altogether possible that reapportioned legislatures will desire that subordinate state subdivisions strike a more equal balance between people and governmental power. Meanwhile, plaintiff's prayer for relief is denied. The motion to dismiss is GRANTED.

This case presents a most serious public question, and for that reason no costs are awarded. An appropriate order should be submitted by counsel for defendants.

Should the Supreme Court of The United States or the Fifth Circuit Court of Appeals render a decision, the import of which is contrary to the result here reached, plaintiff may immediately petition for further relief in this matter without awaiting the outcome of an appeal in this specific case.

THUS DONE AND SIGNED at Lake Charles, Louisiana, on this the 24th day of May, 1965.

/s/ EDWIN F. HUNTER
UNITED STATES DISTRICT JUDGE

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[6] Of course, insulation from federal control cannot be used as an instrument for circumventing a federally protected right. *Gomillion v. Lightfoot,* 364 U.S. 339, 81 S. Ct. 125. However, to say that a civil right is involved here is "begging the question."

APPENDIX B

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 22740

J. MINOS SIMON,

Appellant,

versus

WARREN LANDRY, ET AL.,

Appellees.

Appeal from the United States District Court for the Western District of Louisiana.

(April 11, 1966.)

Before JONES and BELL, Circuit Judges, and BREWSTER, District Judge.

PER CURIAM: The appellant, J. Minos Simon, was plaintiff in the district court. As a qualified and registered voter in the Third Ward of the Parish of Lafayette, State of Louisiana, he seeks injunctive and other relief against an alleged malapportionment of the members of the Lafayette Parish Police Jury, and the members of the Lafayette Parish School Board, among the ten wards of the Parish. The districting of the Parish into police jury wards was done. The district court held, in denying motions to dismiss, that, since the parties had agreed that the Louisiana statutes, L8A-R.S. (LSA-R.S.) § 33:1222 and § 33:1224 were not unconstitutional, there was Federal jurisdiction under 28 U.S.C.A. § 1343(4) and 42 U.S.C.A. § 1983, and that there was no necessity for a three-judge

court. On a further hearing the district court determined that the equal protection one man-one vote principle of *Reynolds v. Simms*, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed. 2d 506, does not extend to subordinate governmental instrumentalities such as the Police Juries of Louisiana Parishes. We do not, at this time, consider or pass upon this question. The districting of the Police Jury wards was done by the Police Jury and was in the nature of legislature action. The action was pursuant to a State statute of general application and was not one affecting a particular municipality or district. 307 U.S. 208, 59 S.Ct. 808, 83 L.Ed. 1242; *Bianchi v. Griffing*, D.C. E.D. N.Y. 1965, 238 F. Supp. 997. It is asserted by the appellant that the action has resulted in depriving him of the constitutional right to equal protection of the law. As such, the action was a statute or order made by a commission. This being so, we conclude that a single judge district court was without jurisdiction and that a three judge court should be convened. 28 U.S.C.A. §§ 2281, 2284. In order that such a court may be convened to hear and determine the cause, the judgment of the district court will be vacated and the cause remanded.

REVERSED AND REMANDED.

APPENDIX C

LOUISIANA REVISED STATUTES, TITLE 33
CHAPTER 2. LOCAL GOVERNMENT
PART V. POLICE JURY
SECTION: 1221-1244

Section 1221. **Election of police juries**

At every general state election, there shall be elected as many police jurors for each ward of each parish in this state, by the qualified voters of said wards, as provided by law.

Section 1222. **Additional police jurors in parishes of 50,000 to 175,000**

In parishes having a population of fifty thousand or more, for each parish ward, there shall be elected, in the manner provided by law, in addition to the police juror to which the ward is entitled, one additional police juror for each ten thousand inhabitants which the ward contains, said apportionment to be based upon the last preceding United States census; also one additional police juror for each additional ten thousand inhabitants, or part thereof in excess of seven thousand five hundred, to be selected from the resident voters of the ward, except that no police jurors shall be lost by the parish or any ward thereof when the parish passes the number of 50,000. After the population of a parish exceeds 175,000 inhabitants according to the United States census, no additional members shall be added to the police jury.

In any parish which became subject to the provisions of this Section for the first time as a result of its population exceeding 50,000 according to the 1960 United States census, the number of police jurors shall not be less than the number which said parish had prior to the said census

and the governor shall appoint additional police jurors in those wards of any such parish which have suffered a reduction in number of police jurors on said account so that the number of police jurors from each such ward shall be equal to the number from such ward prior to the said census. Such additional police jurors shall be residents of the ward from which they are appointed and shall serve until the next election at which police jurors are elected, at which election their successors shall be elected. As amended Acts 1958, No. 164, Section 1; Acts 1964, No. 287, Section 1.

Section 1223. **Additional police jurors in parishes having less than fifty thousand inhabitants**

In each parish having a population of less than fifty thousand inhabitants, there shall be appointed in addition to the police juror to which the ward is entitled, an additional police juror for each five thousand inhabitants which the ward contains, said appointment to be based upon the last preceding U. S. census or upon an official census authorized by the governing authority of the parish; also one additional police juror for each additional five thousand inhabitants or part thereof in excess of two thousand five hundred inhabitants. Such additional police jurors shall be appointed by the governor, shall be residents of the ward from which they are appointed and shall serve until the next election in which police jurors are elected, in which election their successors shall be elected. As amended Acts 1959, No. 12, Section 1; Acts 1960, No. 182, Section 1.

Section 1224. **Police jury may redistrict parish into wards; appointment of temporary officers**

The police jury of each parish may redistrict their parish into not less than five nor more than twelve police jury wards, as the convenience of the people may require,

and shall at the same time district these police jury wards into one or more justice of the peace and election wards, as they think proper, and shall designate said wards numerically and in consecutive order. No police jury shall redistrict their parish as herein provided except by a two-thirds vote of the police jury, recorded by yeas and nays. Whenever any police jury redistricts their parish and creates more than the number of wards such parish presently contains, the police jurors, justices of the peace and constables of the additionally created wards shall be appointed therefor by the governor, by and with the advice and consent of the senate, to serve until the next general state election.

Section 1225. **Qualifications**

Members of the police juries shall possess the same qualifications at the time of their election as members of the house of representatives and in addition thereto shall not hold or exercise the office of mayor of any municipality having a population of 5000 or more according to the United States census for the year 1960. As amended Acts 1962, No. 267, Section 1.

Section 1226. **Organization of police jury; personal responsibility of police jurors**

A. On the first Monday in June next succeeding their election, the police jury shall meet at the courthouses of their respective parishes and organize and proceed to the discharge of their duties, and they shall elect a president from their own number. The police jury may also, in its discretion, elect a vice-president who shall serve as president in the absence or inability of the president to serve for any reason. If there be, from any cause whatever, any failure to organize at the time provided for in this Section, then those who do meet shall fix some other time, not to

exceed one month, and cause the members to be notified by the sheriff of such time of meeting, and on that day they shall meet and organize. A majority shall constitute a quorum, and shall organize and proceed to business. All the members elected may, at any time after their election, meet, organize, and proceed to business.

B. No member shall be held personally responsible for performing or failure to perform a ministerial duty incumbent upon him as a police juror where such duties are delegated to him by the police jury as a whole. The provisions of this Sub-section shall not be interpreted to relieve any police juror from liability for negligence from his own tortious acts. As amended Acts 1954, No. 574, Section 1; Acts 1963, No. 53, Section 1; Acts 1964, No. 526, Section 2.

Section 1227. **Regular meetings**

Police juries may fix the periods of their respective regular meetings, and meet at any other times which they deem necessary.

Section 1228. **Special meetings**

The president of a police jury shall call a meeting of the police jury whenever he is thereto required by twelve inhabitants, freeholders.

Section 1229. **Convening police jury when office of president is vacant**

When the police jury has elected a vice-president pursuant to its authority under R.S. 33:1226, the vice-president may convene the police jury whenever the president is absent or unable to serve for any reason. Under such circumstances, the vice-president may convene the police jury in the same manner and for the reasons that the president could himself do. If the police jury has not elected a vice-president under R.S. 33:1226, the clerk of the district court

of the parish may convene the police jury whenever there is a vacancy in the office of president, in the same manner and for the reasons that the president could himself do. As amended Acts 1963, No. 53, Section 1.

Section 1230. **Notice of meetings**

Notice to members shall be necessary only in cases of special meetings.

Section 1231. **Resignation of president**

The president, when desirous of resigning his seat as a member or president, shall tender his resignation to the police jury.

Section 1232. **Vice-president or president pro tempore to perform duties of president who does not attend**

When the police jury has elected a vice-president pursuant to its authority under R.S. 33:1226, the vice-president shall have all the powers and perform all the duties required by law of the president whenever the president does not attend. If the police jury has not elected a vice-president under R.S. 33:1226, whenever the president does not attend, the police jury shall appoint a president pro tempore, from amongst themselves, who shall have all the powers and perform all the duties required by law of the president. As amended Acts 1963, No. 53, Section 1.

Section 1233. **Compensation**

Members of the police jury shall be entitled to a compensation of thirty dollars per day, and ten cents per mile going to and from the Courthouse in their respective parishes for every day they are actually employed in the services of the parish. Mileage shall be charged for each day of attendance of each session of the police jury to be paid out of the funds of the several parishes on the warrant of the president. Police juries shall not be paid per diem for

more than seventy-six days in any one year, except in the parishes enumerated hereafter, in which police juries shall not be paid more than fifty-two days in any one year: Bossier, St. James, St. Mary, and Caldwell parishes. As amended Acts 1952, No. 287, Section 1; Acts 1956, No. 187, Section 1; Acts 1965, No. 95, Section 1.

Section 1234. **Payment of official expenses**

Police juries may pay the official expenses of any officer or member thereof, when such expenses have been incurred on trips outside of the parish on official business authorized by the police jury.

Payment of official expenses herein authorized shall be made only upon presentation of itemized expense accounts showing the nature of the expenses, the place visited, and the purpose of the trip.

Section 1235. **Penalty for failure to perform duties**

If the president of a police jury fails to perform any of the duties imposed on him by law, without reasonable excuse, he shall forfeit the sum of twenty-five dollars for each failure, to be recovered before any court of competent jurisdiction by motion of the parish attorney, after three days notice; and if any member of the police jury fails to attend any meeting, after being duly notified, or without notice if at a regular session, such member, if he has no reasonable excuse, shall forfeit the sum of ten dollars, to be recovered as above. Such forfeitures shall be paid into the parish treasury.

Section 1236. **Powers of police jury**

The police juries shall have the following powers:

(1) To make regulations for their own government.

(2) To regulate the proportion and direction, the making and repairing, of the roads, bridges, causeways,

dikes, dams, levees, and highways, and when, in the opinion of the police jury, such work will further the best interest of the parish and the parish road system, the police jury may perform all or any part of the repair, maintenance and care of roads, streets, alleys, bridges, and culverts, situated within and under the jurisdiction of any municipality, with less than five thousand inhabitants, in the parish. As amended Acts 1954, No. 496, Section 1.

(3) To regulate the clearing of the banks of rivers and natural drains; for the clearing of the banks of the Mississippi River and all other navigable streams and natural drains for the purpose of securing a free passage for boats and other water crafts, and for logs and timber; to make regulations to prevent the introduction into and propagation in all such streams and natural drains of aquatic plants and other vegetation which can in any manner impede or obstruct navigation of boats and all other water craft or the towing of logs and timber, as well as to prevent the passing from one stream to another (though one or both of such streams be or be not navigable) of all such aquatic plants and vegetation; to build dams to prevent the passage or encroachment of salt water from the Gulf of Mexico or any bays, inlets, or streams connected therewith, into fresh water streams, when such salt water shall be found injurious to property.

(4) To regulate the form and height of inclosures or fences, whenever they may think proper to require the proprietors to inclose any ground.

(5) To pass all ordinances and regulations in relation to the marking, the sale, destruction of cattle in general and especially of wild cattle which are not marked and also of horses and mules; and to take any measure concerning the policing of cattle in general in all the cases not provided for by law; to fix the time in which cattle

may be suffered to rove in the parishes of this state, where that custom prevails, so that such roving may not be detrimental to the crops; to determine what animals shall not be suffered to rove, and in what cases they may lawfully be killed.

(6) To regulate the policing of taverns and houses of public entertainment and shops for retailing liquors in their respective parishes, and to impose whatever parish tax they may see fit on all keepers of billiard tables and grog shops and on all hawkers, peddlers and trading boats.

(7) To levy such taxes as they may judge necessary to defray the expenses of their respective parishes.

(8) The police juries shall have the exclusive privilege of establishing ferries and toll bridges within their respective limits, of fixing the rates of ferriage and toll to be charged thereon, and of generally regulating the policing of the same. This privilege shall not extend to any ferries or bridges already established, until the expiration of their charters; nor to any ferries or bridges within the control of municipal corporations, save and except with the consent and approval of the council of the municipal corporation who may waive their jurisdiction in favor of the police juries; but no toll shall ever be charged on such bridge, and said police juries may lease the ferries within their respective parishes for any number of years, not to exceed five years, and the lessees of said ferries shall give bond and security annually, payable to the president of the police jury, in such sum as may be required, for the faithful performance of their duties as public ferrymen.

(9) To appoint a treasurer for the parish.

(10) To appoint all officers necessary to carry into

execution the parish regulations, and to remove them from office.

(11) To provide for the support of the poor and necessitous within their respective parishes by taxation or otherwise.

(12) To cause to be opened in any town, suburb, or other place divided into house lots, or when a point of land on the Mississippi or other water course is divided among the several proprietors, such ancient natural drains as have been obstructed by the owners of the adjacent lands, and to prescribe the mode to be observed in that respect; to cause any water course which is not navigable to be filled up for the purpose of carrying the public highways over the same; provided that no injury be thereby occasioned to the neighboring inhabitants; and whenever an application is made by more than twelve inhabitants of a town, suburb, or other place divided into house lots, or when a point of land on the Mississippi or other water course is divided among several proprietors, and it is found necessary to dig one or more common draining ditches, the juries may ordain that the ditches be dug at the expense of the owners of the lots, and that the expenses be borne by a contribution among the owners, to be levied in such manner as the jury shall prescribe; saving to individuals or persons aggrieved the right of complaining for the making or opening of such natural or artificial drainings when unnecessary or harmful to them.

(13) To construct and maintain drainage, drainage ditches, and drainage canals; to open any and all drains which they may deem necessary and to do and perform all work in connection therewith; to cut and open new drains, ditches and canals, to acquire lands for necessary public purposes, including rights of way, canals and ditches

by expropriation, purchase, prescription or by donation; to enter into contracts for the construction of such drainage works, and to purchase machinery and have the work performed under their own supervision; to allocate, use and expend the general alimony of the parish for any of the above purposes; to incur debt and issue bonds for drainage and drainage canals in the manner provided for by Subtitle II of Title 39; and use such other funds as may be legally expended for such purposes; to levy taxes for the maintenance of said drainage works in the manner provided for and under the authority of Article X, Section 10 of the Constitution of the State of Louisiana, as amended, and to construct any works and do any and all things necessary to effect proper drainage and carry this Paragraph into effect; to enter into contracts or agreements, under such terms and conditions as may be mutually agreeable with the State of Louisiana, through the Department of Public Works for the securing of State aid for the purposes herein authorized; to cooperate and participate in any State or Federal aid program which may now exist or which may hereafter come into effect under any State or Federal law. Police juries shall open all natural drains which they deem necessary in their respective parishes and shall perform all work connected therewith, which they may deem necessary to make the opening of natural drains effective. They may perform all other acts necessary to fully drain all the land in their respective parishes and maintain such drainage when established. This Paragraph is intended to furnish additional means whereby parishes in the State of Louisiana may accomplish the objects and purposes herein referred to, and shall be liberally interpreted.

(14) To adopt such regulations as they may think necessary to prevent and punish trespasses committed by hunters on inclosures or lands fenced in; but the fines im-

posed shall, in no case be less than five dollars nor more than fifty dollars.

(15) To grant permission and to determine the rate of toll to be demanded by persons desiring to build a bridge or make a turnpike road; but in no case shall the police jury grant the right of toll for more than ten years.

(16) To enact ordinances and regulations, not inconsistent with the laws and constitution of the United States, nor of this state, to protect their respective parishes against the introduction of every kind of contagious disease.

(17) To sue any person for whose account levees, roads, etc., may have been made or repaired at the expense of the parish, and to obtain the reimbursement of said amount, by privilege on the land subject to the works.

(18) To appoint parish syndics, and overseers of roads and levees, at any regular meeting, by a majority of the votes present, and whether a quorum is in attendance or not.

(19) To lease to the bidder for the shortest time, not exceeding ten years, any tract of land within the limits of their respective parishes, given by the general government to the State for the use of Schools, and upon which a levee is necessary, as well for its own protection as for that of the adjoining lands; the only consideration of said lease to be making and keeping in repair the necessary levee by the lessee, for the whole term of his lease.

(20) To pass all ordinances and regulations which they deem necessary to govern and regulate the laying out of subdivisions, resubdivisions, roads, streets, alleys, ways, subways, viaducts, bridges, parks, parkways, boulevards, playgrounds, community centers and other public buildings, grounds, or improvements, and the location, re-location,

widening, removal, vacation or extension or other improvements of such existing public works; the platting of land into lots, roads, streets, and other dedicated or private ways; the location, re-location, development, routing, and re-routing of transit and transportation line, which in the opinion of the police jury are in the interest of the systematic planning of the parish.

(21) To pass ordinances, to compel property owners to cut grass and obnoxious weeds on their property.

(22) To pass ordinances, prohibiting or regulating the storage of dynamite or other explosives within the parish.

(23) To pass ordinances providing for the control, supervision and regulation of tourist courts or tourist camps, and providing regulations for their operation.

(24) To pass ordinances providing for the control, supervision, regulation and operation of soft drink stands, sandwich stands, and all such similar places that furnish curb service or service in lots or parking places, including ordinances either regulating or prohibiting the operation of loud speakers.

(25) To pass ordinances providing penalties for violations of any ordinances adopted on any of the above subjects, said penalties not to be inconsistent with penalties authorized by existing laws.

(26) Whenever in their judgment it is to the manifest interest of the public in general, and in order to facilitate the construction, maintenance and operation of canals, or portions of canals, or a branch of a canal, to be constructed by or under the authority of the United States for the purpose of transportation, and for the construction and improvement of the Inland Waterway Channel, known

as the "Intercoastal Canal", to expropriate in the same manner and under the same limitation as expropriation of rights of way for public road purposes rights of way for the canals, when the owner or owners of the lands, in their respective parishes, through which lands the canals are projected and for which the rights of way are needed, shall from disagreement in price, or any cause whatever refuse to convey the rights of way to the United States.

Upon the acquisition of the title to rights of way, the police juries shall thereupon execute to the United States and deliver to their authorized agent, a deed of donation of the rights of way, reciting the proceedings relative to the acquisition of the title. The deed of donation shall convey to the United States a good and absolute title to the rights of way against all persons whatsoever.

To donate to the United States any real property, which it may own or in which it may have any interest, for the purpose of the erection and construction thereon of public buildings which the United States may propose and agree to erect and construct. The police juries may warrant the title to the property, which may be so donated to the United States.

(27) To levy a tax not to exceed three (3) mills for the creation and support of public health centers in the parish; provided that the rate, purpose and duration of said tax shall be submitted to the resident property taxpayers qualified to vote in the parish in which the tax is to be levied, and, a majority vote of those voting, in number and amount, shall have voted in favor thereof; all in accordance with the authority of Article X, Section 10 of the Louisiana Constitution. As amended Acts 1950, No. 43, Section 1.

(28) To enact ordinances regulating the traffic on

all public roads outside of incorporated municipalities and within recognized subdivisions, including but not by way of limitation the right to establish speed limits and speed zones, to regulate the parking of vehicles, to establish rules and regulations for the movement of traffic, including the designation of one-way streets, and such other similar rules and regulations; provided that in so far as such ordinances may affect state highways they shall not be in conflict with any rules and regulations established by the legislature for the use of highways forming part of the state highway system. Provided further that the rights herein conferred shall not include the right to regulate the weights or size of vehicles. Added Acts 1954, No. 342, Section 1.

(29) The governing body of the parish in which the State Capitol is located shall be and is hereby empowered and authorized to enact ordinances establishing building regulations, including regulation of the business of wiring buildings for conducting electric current into and through the same, and the provision of rules and regulations for persons, firms or corporations engaged in such business; regulating the business of plumbing and providing rules and regulations for persons, firms or corporations engaged in plumbing; and regulating the construction, maintenance and repair of buildings; for the issuance of permits for all such electrical, plumbing and construction work; including the adoption of plumbing, electrical and building codes, which codes shall include, among other things, provision for the employment of inspectors to enforce and carry out the provisions thereof, all of which said ordinances and codes shall be effective outside of incorporated municipalities and within recognized subdivisions of the parish. Added Acts 1954, No. 700, Section 1.

(30) To enact ordinances regulating or prohibiting

the storing or abandoning of junk, wrecked or used automobiles, or motor vehicles, or any part or parts thereof, or any other junk, discarded or abandoned machinery or other metal, tin or other discarded items, on any vacant lot, or any unused portion of any occupied lot, neutral ground or sidewalk, within recognized subdivisions of the parish. In the exercise of the authority herein granted, the police jury may, among other things, require, but not by way of limitation, that any vacant lot, or unused portion of any occupied lot, used for the storing of junk, as herein defined, shall be surrounded or enclosed by a board fence or other enclosure. Added Acts 1954, No. 699, Section 1.

Section 1236.1. **Power to employ parish manager**

The police juries shall have the power and authority to employ a parish manager and fix his salary for a term not to exceed that of the police jury, who shall be a registered voter in the parish and who may be a member of that body, provided that if a member of the police jury be employed as parish manager upon a stipulated compensation, such compensation shall take into consideration the per diem provided for police jurors under R.S. 33:1233. Added Acts 1960, No. 225, Section 1.

Section 1237. **Power to close and dam streams**

A police jury may close and dam, on its own initiative, small canals or streams of water in the parish which it finds hazardous or detrimental as well as destructive or harmful to property or to the public health and which are not under the jurisdiction of the United States government or War Department, when it has the written approval thereto of the department of public works; and the written approval of the board of commissioners of the levee district in which said dam is to be located if it is in a levee district.

Section 1238. **Notice; hearing and determination**

The police jury desiring to take such action shall give public notice thereof in the official journal of the parish for a period of at least thirty days. The notice shall give the date, hour, and place of a meeting to be held for the purpose of authorizing the closing of the canal or stream. The notice shall likewise designate and name the canal or stream they propose to close or dam. The police jury shall then hold a public hearing at the date, hour, and place designated in the notice, and allow all interested parties to be heard for or against the proposition. After the hearing, if the facts and findings warrant the police jury to take such action in closing or damming the stream as advertised, it shall then have the authority and power to do so.

Section 1239. **Reporting licenses to auditor**

Police juries shall report to the auditor, through their respective presidents, by the fifteenth day of April of each year, a complete list of the names and business of persons paying licenses, the amount of each license, and date of payment as reported by the tax collector.

Section 1240. **Financial condition of parish to be reported**

The report shall also contain a complete statement of the financial condition of the parish, the nature and amount of indebtedness, the credits, whether judgment, or otherwise, cash on hand, and rate of taxation.

Section 1241. **Giving names of certain officers of police jury to secretary of state**

Police juries shall keep the secretary of state advised of the names and post office addresses of their respective presidents, vice-presidents and secretaries. As amended Acts 1963, No. 53, Section 1.

Section 1242. **Enforcement of ordinances**

Police juries may enforce ordinances which they are authorized to pass, by fine or imprisonment, or both, and may prosecute by criminal process of indictment or information or by fine or forfeiture to be collected by civil process before any court of competent jurisdiction.

Section 1243. **Maximum of penalties**

No fine shall exceed one hundred dollars. Imprisonment shall not exceed thirty days in the parish jail.

Section 1244. **Parish of Orleans excepted**

The provisions of this Part do not apply to the Parish of Orleans.

Section 1245. **Industrial and personnel surveys, authority to make; costs; information under oath; penalties for false information; limitations on authority conferred**

A. The parish police juries, with the assistance of the sheriffs, shall have authority to make industrial and personnel surveys within their parishes, and to defray the cost thereof, to secure from individuals all information which they may deem necessary pertaining to their qualifications and availability of personnel and qualified persons to meet industrial demands for job opportunities in the parish.

B. The police juries may require all such information to be given under oath and any person giving false information under oath shall be guilty of false swearing and upon conviction therefor by a court of competent jurisdiction, shall be punished by fine or imprisonment, in the discretion of the court.

C. Nothing contained herein shall give authority to

parish juries to extend an industrial survey to include any bona fide legitimate labor organization or members thereof or to interfere in any way with labor organizations or their members in the conduction of their legitimate union business; nor shall it mean that police juries shall have the right of authority to serve as labor consultants, labor advisors or as an agency to refer or recommend persons for employment. Acts 1960, No. 230, Sections 1-3.